

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

HARIHAR 2ND, L.L.C.

PLAINTIFF

v.

CIVIL ACTION No: 1:23-CV-132-DAS

**ACCELERANT SPECIALTY
INSURANCE COMPANY**

DEFENDANT

AGREED ORDER APPOINTING SAM KELLY AS APPRAISAL UMPIRE

Before the Court is the Petition for Appointment of Appraisal Umpire (Dkt. 1) filed by Petitioner Harihar 2nd, L.L.C. (“Petitioner”). Through counsel, Petitioner and Respondent Accelerant Specialty Insurance Company (“Respondent”) have agreed to the Court’s appointment of Samuel C. Kelly (with the law firm of Brunini, Grantham, Grower & Hewes in Jackson, Mississippi) as umpire and Mr. Kelly has agreed to accept the appointment. Accordingly, the Court orders as follows:

1. Sam Kelly is hereby appointed to serve as umpire (described in the subject insurance policy as the “impartial third party appraiser”) in the pending appraisal of the amount of loss associated with the December 23, 2022 loss to Petitioner’s insured building located at or around 879 Mississippi Drive, Tupelo, Lee County, Mississippi 38804.

2. As provided in the insurance policy, each party shall bear one-half of Mr. Kelly’s fees and expenses, which shall be those normally and customarily charged by him for work of like kind.

3. The umpire and/or appraisal panel shall enter a line-item award identifying any damages by coverage type under the insurance policy. The parties reserve all rights, and post-

award coverage determinations shall be subject to all terms, conditions, and provisions of the insurance policy.

4. Petitioner is directed to send Mr. Kelly a copy of this Order as soon as practicable upon its entry.

5. Having fully and finally adjudicated all issues as set forth in the Petition for Appointment of Appraisal Umpire, and the Court seeing no just cause for delay, this is a **FINAL ORDER** without prejudice to either party making subsequent filings or bringing such suits as may be necessary to enforce the terms of this Order, the parties' respective rights under the subject insurance policy, or applicable law.

6. No party shall seek or be awarded costs or attorney's fees associated with the Petition for Appointment of Appraisal Umpire. This case is CLOSED.

SO ORDERED, this the 5th day of December, 2023.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE

APPROVED FOR ENTRY BY:

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